

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

ALLEN LYNN JEFFRIES,

Petitioner,

vs.

LARRY SMALL, Warden,

Respondent.

CASE NO. 10-CV-00425-H (AJB)

ORDER:

**(1) DENYING PETITION FOR
WRIT OF HABEAS CORPUS**

**(2) ADOPTING REPORT AND
RECOMMENDATION**

On April 28, 2010, Allen Lynn Jeffries (“Petitioner”), a state prisoner proceeding *pro se*, filed a Petition for Writ of Habeas Corpus (“Petition”) pursuant to 28 U.S.C. § 2254. (Doc. No. 1.) Petitioner alleges the Department of Corrections abused its authority in violation of the Eight and Fourteenth Amendments when it transferred Petitioner between prison facilities and did not process an administrative inmate appeal in violation of the the First and Fifth Amendments. (*Id.*) On August 11, 2010, Respondent filed an answer to the Petition. (Doc. No. 10.) On October 4, 2010, Petitioner filed a traverse to the answer to the Petition. (Doc. No. 13.) On November 17, 2010, the magistrate judge issued a Report and Recommendation (“R&R”) that the Court deny the Petition. (Doc. No. 15.) On January 1, 2011, Petitioner filed an objection to the R&R. (Doc. No. 18.)

The Court, pursuant to its discretion under Local Rule 7.1(d)(1), determines this matter is appropriate for resolution without oral argument and submits the matter on the papers. For

1 the reasons set forth below, the Court DENIES the Petition and ADOPTS the R&R.

2 Background

3 In 1980, Petitioner was convicted of second degree murder and sentenced to a term of
4 15 years to life. (Lodgment, Ex. 1.) Petitioner claims that in 2005, the Department of
5 Corrections and Rehabilitation (“Department”) improperly transferred him from Calipatria
6 State Prison to Kern Valley State Prison. (Id.) Petitioner claims the Department abused its
7 authority by transferring him and by declining to process his April 2009 appeal concerning the
8 transfer. (Id.) Plaintiff seeks monetary damages for the allegedly unlawful prison transfer.

9 On May 18, 2009, Petitioner filed a habeas corpus petition in Imperial County Superior
10 Court alleging abuse of authority and refusal to process his administrative appeal. (Lodgment,
11 Ex. 2.) On July 23, 2009, the Superior Court denied the petition as untimely. (Lodgment, Ex.
12 4.) On August 6, 2009, Petitioner filed a habeas corpus petition in the California Court of
13 Appeal presenting the same claims. (Lodgment, Ex. 5.) The appellate court subsequently
14 denied the petition. (Lodgment, Ex. 1.) On October 10, 2009, Petitioner filed a habeas corpus
15 petition to the California Supreme Court presenting the same claims. (Lodgment, Ex. 6.) On
16 November 10, 2009, the California Supreme Court denied the petition. (Lodgment, Ex. 7.)

17 Discussion

18 **I. Scope of Review and Applicable Legal Standard.**

19 A district court “may accept, reject, or modify, in whole or in part, the findings or
20 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). If a party objects
21 to any portion of a magistrate judge’s report, the district court “shall make a de novo
22 determination of those portions of the report . . . to which objection is made.” Id.

23 The amended Anti-Terrorism and Effective Death Penalty Act of 1996 (“AEDPA”) 28
24 U.S.C. § 2254(d) provides the following standard of review applicable to state court decisions:

25 (d) An application for a writ of habeas corpus on behalf of a person in custody
26 pursuant to the judgment of a State court shall not be granted with respect to any
27 claim that was adjudicated on the merits in State court proceedings unless the
28 adjudication of the claim—

(1) resulted in a decision that was contrary to, or involved an
unreasonable application of, clearly established Federal law, as

1 determined by the Supreme Court of the United States; or

2 (2) resulted in a decision that was based on an unreasonable
3 determination of the facts in light of the evidence presented in the State
court proceeding.

4 28 U.S.C. § 2254(d).

5 A federal court may grant habeas relief under the “contrary to” clause of § 2254(d)(1)
6 if a state court either (1) “applies a rule that contradicts the governing law set forth in [the
7 Court’s] cases” or (2) “confronts a set of facts that are materially indistinguishable from a
8 decision of [the] Court and nevertheless arrives at a result different from [the Court’s]
9 precedent.” Williams v. Taylor, 529 U.S. 362, 405-06 (2000).

10 A federal court may grant habeas relief under the “unreasonable application” clause of
11 § 2254(d)(1) if the state court “identifies the correct governing legal rule from [the Supreme]
12 Court’s cases but unreasonably applies it to the facts of the particular state prisoner’s case.”
13 Id. at 407. A federal court may also grant habeas relief “if the state court either unreasonably
14 extends a legal principle from [Supreme Court] precedent to a new context where it should not
15 apply or unreasonably refuses to extend that principle to a new context where it should apply.”
16 Id. The state court’s “unreasonable application” must be objectively unreasonable to the extent
17 that the state court decision is more than merely incorrect or erroneous. See Lockyer v.
18 Andrade, 538 U.S. 63, 75-76 (2003).

19 Habeas relief is also available under § 2254(d)(2) if Petitioner can demonstrate that the
20 factual findings upon which the state court’s adjudication of his claims rest are objectively
21 unreasonable. See Miller-El v. Cockrell, 537 U.S. 322, 340 (2003). The state court’s factual
22 determinations are presumed to be correct and Petitioner has the burden of rebutting this
23 presumption by clear and convincing evidence. See 28 U.S.C. § 2254(e)(1); Summer v. Mata,
24 449 U.S. 539, 545-47 (1981).

25 Additionally, even if a state court decision is contrary to United States Supreme Court
26 precedent or rests on an unreasonable determination of facts in light of the evidence, Petitioner
27 must show that such error cause substantial or injurious prejudice. See Penry v. Johnson, 532
28 U.S. 782, 795 (2001) (quoting Brecht v. Abrahamson, 507 U.S. 619, 637-38 (1993)). AEDPA

1 creates a highly deferential standard towards state court rulings and are thus given the benefit
2 of the doubt. See Womack v. Del Papa, 497 F.3d 998, 1001 (9th Cir. 2007).

3 **II. Petitioner Does Not Challenge the Fact or Duration of His Confinement Nor Does He**
4 **Allege a Deprivation of Federal Rights.**

5 Petitioner seeks monetary damages for the administrative prison transfer and his
6 unsuccessful appeal of the transfer. Respondent argues that Petitioner's failure to challenge
7 the fact or duration of his confinement precludes him from federal habeas corpus relief.
8 Petitioner's traverse does not challenge the fact or duration of his confinement. (Traverse.)

9 Federal habeas corpus relief is available for inmates challenging the "fact of or duration
10 of [their] physical confinement." Preiser v. Rodriguez, 411 U.S. 475, 498 (1973); see also
11 Wolff v. McDonnell, 418 U.S. 539, 554 (1974) ("[H]abeas corpus is not an appropriate or
12 available remedy for damages claims.") (citing Preiser, 411 U.S. at 498-99). "Habeas corpus
13 proceedings are the proper mechanism for a prisoner to challenge the 'legality or duration' of
14 confinement. A civil rights action, in contrast, is the proper method of challenging 'conditions
15 of . . . confinement.'" Badea v. Cox, 931 F.2d 573, 574 (9th Cir. 1991) (citations omitted).

16 Here, Petitioner's claims do not fit the scope of federal habeas corpus proceedings
17 because Petitioner fails to challenge the fact or duration of his confinement. Petitioner admits
18 that he is not challenging the duration of his confinement. (Traverse at 3.) Petitioner
19 challenges his prison transfer to Kern Valley State Prison and the Department's refusal to
20 process his administrative appeal over the transfer. Therefore, Petitioner challenges the
21 conditions, not the legality or duration, of his confinement and seeks monetary damages. A
22 federal habeas corpus petition must allege a deprivation of one or more federal rights to present
23 a cognizable claim pursuant to § 2254. See id.

24 Inmates do not have a constitutional right to be incarcerated at a particular correctional
25 facility or in a particular cell or unit within a facility. See Montanye v. Haymes, 427 U.S. 236,
26 242-43 (1976) (finding no constitutional right to be housed in a particular state prison);
27 Meachum v. Fano, 427 U.S. 215, 224 (1976) (holding that no due process protections were
28 required upon the discretionary transfer of state prisoners to a substantially less agreeable

1 prison). Therefore, Petitioner does not have a federal interest in a particular prison facility.

2 Petitioner argues that California Penal Code section 5068 gives prisoners a liberty
3 interest in a particular prison and, as a result, his administrative appeal over his transfer. A
4 state's interpretation of its laws or rules, however, provides no basis for federal habeas corpus
5 relief when no federal question arises. Estelle v. McGuire, 502 U.S. 62, 68 (1991) (stating that
6 federal habeas corpus relief does not lie for errors of state law, and federal courts may not
7 reexamine state court determinations on state law issues).

8 The Court concludes that the denial of Petitioner's claims was neither contrary to, nor
9 involved an unreasonable application of, clearly established federal law, and was not based on
10 an unreasonable determination of the facts. See 28 U.S.C. § 2254(d); Andrade, 538 U.S. at 75-
11 76; Williams, 529 U.S. at 405-07. Accordingly, the Court DENIES the Petition with respect
12 to Petitioner's claims.

13 Additionally, the Court DENIES Petitioner's request for an evidentiary hearing because
14 Petitioner's claims can be resolved on the basis of the record before the Court. See Bahor v.
15 Risely, 730 F.2d 1228, 1233 (9th Cir. 1984).

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Conclusion

For the reasons stated above, the Court **DENIES** the Petition for Writ of Habeas Corpus, **ADOPTS** the R&R, and **DENIES** a Certificate of Appealability.

IT IS SO ORDERED.

DATED: January 26, 2011


MARILYN L. HUFF, District Judge
UNITED STATES DISTRICT COURT

COPIES TO:
All parties of record.